

CITY OF SPOKANE HEARING EXAMINER

Re: Conditional Use Permit Application for) FINDINGS, CONCLUSIONS,
the expansion of a mini-storage site from) AND DECISION
7 acres to 16 acres in the Light Industrial)
zone) FILE NO. Z19-382CUP3

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant is proposing to expand an existing mini-storage site from 7 acres to approximately 16 acres in a Light Industrial (LI) zone. In the LI zone, the maximum lot size for mini-storage facilities is 7 acres. For facilities utilizing more than 7 acres, a Type III Conditional Use Permit (CUP) is required.

Decision: Approved, with conditions.

FINDINGS OF FACT BACKGROUND INFORMATION

Applicant/ Douglass Properties
Owner: c/o Steve Krum
815 E. Rosewood Avenue
Spokane WA 99208

Agent: Steve Soltys
c/o JR Bonnett
803 E. 3rd Avenue
Spokane WA 99202

Property Location: The proposed site is located at the northwest corner of SR-2 (West Sunset Highway) and Campus Drive, and includes Tax Parcel Nos. 25203.9108, 25203.9109, and 25203.9110. The address of the site is 1346 S. Campus Road, Spokane, Washington 99224.

Zoning: The property is zoned LI.

Comprehensive Plan Map Designation: The property is designated as Light Industrial in the City of Spokane Comprehensive Plan (CP).

Site Description: The site is approximately 16 acres in size. The topography of the site is generally flat. This property is bound on the south, east, and west by the City boundary and to the north by the boundary of Spokane County. The largest of the three tax parcels is currently being developed with the first phase of this proposed mini-storage complex. The parcels to the north and west of the largest parcel are currently vacant.

Surrounding Conditions and Uses: The land to the south, east, and west of the site is zoned LI. The land to the north is in Spokane County, and the zoning is Rural Traditional (RT). The property directly to the east is vacant. The majority of the properties on the south and west are

vacant as well, except for a building to the northwest owned by the U.S. General Services Administration. To the north is the Pillar Rock residential subdivision located in Spokane County. All adjacent land use designations in the City limits are LI.

Project Description: The three parcels are proposed to be developed into a total of 313,246 square feet of mini-storage space and approximately 20 parking stalls on site.

PROCEDURAL INFORMATION

Authorizing Ordinances: SMC 17C.130, Industrial Zones; 17C.350.030, Light Industrial Limited Uses; and 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: August 14, 2019
Posted: August 14 and 15, 2019

Notice of Application/Public Hearing: Mailed: October 9, 2019
Posted: October 10 and 18, 2019

Community Meeting: August 29, 2019

Public Hearing Date: November 7, 2019

Site Visit: November 1, 2019

State Environmental Policy Act (SEPA): A Mitigated Determination of Nonsignificance (MDNS) was issued by the City of Spokane on March 14, 2019. Any appeal of the MDNS was due on March 28, 2019. No appeal was filed.

Testimony:

Dave Compton, Assistant Planner
City of Spokane Planning & Development
808 West Spokane Falls Boulevard
Spokane, WA 99201

Steve Krum
Douglass Properties
815 E. Rosewood Avenue
Spokane, WA 99208

Exhibits:

1. Planning Services Staff Report dated 10/25/19
2. Application, including:
 - 2A General application
 - 2B Conditional use application
 - 2C Supplemental information
 - 2D Notification map application
 - 2E Site plans
 - 2F Counter complete checklist
3. Pre-Development Conference Notes dated 12/06/18
4. Request for Comments letter dated 09/10/19
 - 4A Engineering dated 09/27/19
 - 4B Planning and Development, Urban Design dated 10/21/19

5. Environmental Documents
 - 5A Mitigated Determination of Nonsignificance "MDNS" dated 03/14/19
 - 5B Environmental Checklist dated 11/07/19
6. Notice of Application Instructions dated 10/02/19, including:
 - 6A Notice of Application & Public Hearing
 - 6B Affidavit of Mailing dated 10/09/19
 - 6C Affidavit of Posting dated 10/10/19 and 10/18/19
 - 6D Email correspondence related to Affidavits of Notification
7. Notice of Community Meeting, including:
 - 7A Affidavit of Mailing dated 08/14/19
 - 7B Affidavit of Posting dated 08/14/19 and 08/15/19
 - 7C Affidavit of Removal of Public Sign dated 08/30/19
 - 7D Community Meeting Sign in Sheet
- A Exhibits received at the hearing:
 - A-1 Hardcopy of Planning's PowerPoint presentation

FINDINGS AND CONCLUSIONS

To be approved, the proposed CUP must comply with the criteria set forth in SMC Section 17G.060.170(C). The Hearing Examiner has reviewed the proposed CUP and the evidence of record with regard to the application and makes the following findings and conclusions:

1. *The proposal is allowed under the provisions of the land use codes. See SMC 17G.060.170(C)(1).*

The subject site is zoned LI. According to Table 17C.130-1, Mini-Storage uses are allowed as a Limited Use ("L") in the LI zone. See Table 17C.130-1; see also SMC 17C.130.100(B) (defining Limited Uses). The "L" standards provide that the maximum lot size for mini-storage facilities is 7 acres. See SMC 17C.350.030(A). However, mini-storage facilities may be allowed on larger lots if a Type III CUP is obtained. See *id.*

The Hearing Examiner concludes that the proposal is allowed under the land use codes, so long as the conditional use and other development standards are satisfied. As a result, this criterion is satisfied.

2. *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

The project site has a Light Industrial designation in the CP, which is intended for those lighter industrial uses that produce little noise, odor, or smoke. See Exhibit 1, p. 5. The proposed facility meets this description, given that the use involves the rental of storage space. There is little reason to believe that the use will generate a noticeable amount of noise, or that it will generate any odor or smoke.

The proposed mini-storage facility is consistent with Policy LU 1.10, Industry. See CP, Chapter 3, Land Use, p. 3-12. That policy encourages the development of a variety of light and heavy industrial uses, in a variety of industrial locations and property sizes. See *id.* The proposal

results in the development of one type of light industrial use, putting the land to productive use, in furtherance of this policy.

The proposed facility is also consistent with Policy LU 1.15, which prohibits the siting of land uses that are incompatible with aviation operations in the Airfield Influence Areas (AIA). See CP, Chapter 3, Land Use, p. 3-15. The project site is within the MIA 3/4 area. See Exhibit A-1 (Military Influence Area (MIA) 3/4). However, industrial uses are considered compatible with aviation facilities because of their low building occupancies and similar impacts on adjoining properties. See CP, Chapter 3, Land Use, p. 3-15. In addition, mini-storage is considered to be a "low intensity use" that does not directly or indirectly inhibit aviation operations. See SMC 17C.180.070(D)(6). In other words, the proposed use is compatible with the nearby aviation operations, in accordance with both the municipal code and Policy LU 1.15.

The Hearing Examiner concludes that the project is consistent with the goals and policies of the CP. Therefore, this criterion is satisfied.

3. *The proposal meets the concurrency requirements of Chapter 17D.010 SMC. See SMC 17G.060.170(C)(3).*

The decision criteria for Type III decisions (such as a CUP) mandate that all proposals satisfy the concurrency requirements under SMC 17D.010. See SMC 17G.060.170(C)(3). Accordingly, on September 10, 2019, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction.

The city received limited responses to its request for comments, and none of those comments indicated that concurrency could not be achieved. See Exhibits 4A-4B. To the extent that there was a lack of substantive comments from departments and agencies with jurisdiction, the Hearing Examiner must conclude that concurrency standards are satisfied. See SMC 17D.010.020(B)(1); see also Exhibit 4. In addition, a review of the record confirms that there is no substantive evidence that the project transgresses any concurrency requirements. There was no testimony at the public hearing suggesting that the concurrency standards would not be satisfied.

The Hearing Examiner finds that the project satisfies the concurrency requirements of the SMC. Therefore, this criterion for approval of the CUP is met.

4. *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features. See SMC 17G.060.170(C)(4).*

The Hearing Examiner concludes that the property is suitable for the proposed use given its physical characteristics. There is nothing about the shape, size, or topography of the property that makes the proposed use unsuitable. The site is relatively flat. See Exhibit 1, p. 6. The shape and size of the property easily accommodate the proposed use, within the constraints of the development standards. See e.g. Exhibit 2E. There are no known environmental constraints. See Exhibit 1, p. 6; see also Exhibit 5B (Environmental Checklist). In addition, there are no known places or objects of cultural, historic, or archaeological significance. See Exhibit 5B (Environmental Checklist ¶ B(13)). The property is located in the Aquifer Sensitive Area and the Aquifer Critical Recharge Area, but that does not preclude the proposed use. It does mean that

the provisions of SMC 17E.010 must be honored, however. See Exhibit 1, p. 6. The site is suitable for the proposed development according to all City departments and agencies that commented. See *id.* Based upon the foregoing, the Hearing Examiner concludes that the site is suitable for the proposed use. Therefore, this criterion for approval is satisfied.

5. *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effect or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

The environmental review process, completed pursuant to SEPA, demonstrates that the project will not have significant environmental impacts.

The Applicant prepared an environmental checklist, pursuant to SEPA, for this project. See Exhibit 5B (Environmental Checklist attached to CUP Application). The checklist supports the conclusion that this project will not have significant impacts on the environment or the surrounding properties. For example, there are no surface waters, such as wetlands or streams, on the site. See Exhibit 5B (Environmental Checklist ¶ B(3)(a)(1)). No high groundwater was encountered during site investigations. See Exhibit 5B (Environmental Checklist ¶ A(14)(b)(1)). The property does not lie within a 100-year floodplain. See Exhibit 2B (Environmental Checklist ¶ B(3)(a)(5)). No waste materials will be discharged into the ground or into surface waters. See Exhibit 5B (Environmental Checklist ¶¶ B(3)(a)(6), B(3)(b)(2) & B(3)(c)(2)). No other environmental hazards (e.g., exposure to toxic chemicals, risk of fire or explosion, hazardous wastes, etc.) are anticipated to arise due to this project. See Exhibit 5B (Environmental Checklist ¶ B(7)(a)). No threatened or endangered species were identified on the site. See Exhibit 5B (Environmental Checklist ¶¶ B(4)(c) & B(5)(b)).

An MDNS was issued on March 14, 2019. See Exhibit 5A. The MDNS included the condition that the project:

...adhere to the previously approved stormwater treatment within BSP-63A and flow control parameters of the conceptual drainage report for the preliminary plat of Pillar Rock Estates (P-1959) or of the constructed downstream storm drain lines, if of lesser capacity than that envisioned. (See attached exhibits)

See Exhibit 5A. No other environmental conditions were imposed or proposed. There was no evidence that this condition would not be fulfilled in the process of completing this development. In addition, the MDNS was not appealed.

For the foregoing reasons, the Hearing Examiner concludes that the project will not have significant impacts on the environment that cannot be adequately addressed through mitigation. Therefore, this criterion for approval of the CUP is satisfied.

DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed CUP subject to the following conditions:

1. Approval is for a CUP to allow the proposed mini-storage facilities on approximately 16 acres in a light industrial zone, on the property located at the northwest corner of Campus Road and SR-2. The project will be completed substantially in conformance with the plans and application on file in Planning and Development.
2. The project will be developed in substantial conformance with SMC 17C.130, Land Use Standards, Industrial Zones, to maintain compatibility with, and limit any negative impacts to surrounding areas.
3. The project will be developed in substantial conformance with SMC 17C.350 Mini-Storage Facilities, especially design considerations, architectural features, and landscaping/screening on street frontages and abutting residential development on the northern boundary.
4. Applicant will submit application materials for design review to Planning Services prior to submitting any building permits.
5. A boundary line adjustment will be required to be completed prior to the submittal of any building permit applications.
6. The design of the access, sewer, water, stormwater, sidewalk, curb/gutter, etc., will be handled at time of building permit application, per the comments of City of Spokane Engineering.
7. If any artifacts or human remains are found upon excavation, the Spokane Tribe of Indians and the Planning & Development Department should be immediately notified and the work in the immediate area cease. Pursuant to RCW 27.53.060 it is unlawful to destroy any historic or prehistoric archaeological resources. RCW 27.44 and RCW 27.53.060 require that a person obtain a permit from the Washington State Department of Archaeology & Historic Preservation before excavating, removing, or altering Native American human remains or archaeological resources in Washington.
8. This project must adhere to any additional performance and development standards documented in comments or required by the City of Spokane, the County of Spokane, the State of Washington, and any federal agency.

COVENANT


Development of this property is subject to certain conditions on file with the City of Spokane Planning Department and the Office of the City of Spokane Hearing Examiner. The property may not be developed except in accordance with these conditions. A copy of these conditions is attached to this Covenant.

This statement shall be identified as a Covenant. The owner's signature shall be notarized.

9. This approval is subject to the above-stated conditions. By accepting this approval the Applicant acknowledges that these conditions are reasonable and agrees to comply with

them. The filing of the above-required covenant constitutes the Applicant's written agreement to comply with all conditions of approval. The property may not be developed except in accordance with these conditions and failure to comply with them may result in the revocation of this approval.

DATED this 18th day of November, 2019.



Brian T. McGinn
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

Decisions by the Hearing Examiner regarding conditional use permits are final. They may be appealed by any party of record by filing a Land Use Petition with the Superior Court of Spokane County. **THE LAND USE PETITION MUST BE FILED AND THE CITY OF SPOKANE MUST BE SERVED WITHIN TWENTY-ONE (21) CALENDAR DAYS OF THE DATE OF THE ISSUANCE OF THE DECISION.** Pursuant to RCW 36.70C.040(4)(a), the date of the issuance of the decision is three days after a written decision is mailed by the local jurisdiction. This decision was mailed on November 18, 2019. **THEREFORE, THE DATE OF THE LAST DAY TO APPEAL IS THE DECEMBER 12, 2019 AT 5:00 P.M.**

In addition to paying any Court costs to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing a verbatim transcript and otherwise preparing a full record for the Court.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.